



BEFORE THE STATE BOARD OF EQUALIZATION
OF THE STATE OF CALIFORNIA

In the Matter of the Appeal of)
JAMES K. LORENZ)

For Appellant: James K. Lorenz,
in pro. per.

For Respondent: Allen R. Wildermuth
Counsel

O P I N I O N

This appeal is made pursuant to section 18593 of the Revenue and Taxation Code from the action of the Franchise Tax Board on the protest of James K. Lorenz against a proposed assessment of personal income tax and penalties in the total amount of **\$1,367.73** for the year 1979.

Appeal-of James K. Lorenz

Appellant did not file a California personal income tax return for 1979. When he still did not file after two demands that he do so, respondent issued a notice-of proposed assessment for 1979. **Appellant's 1979** income was determined by increasing the income shown on his three previous years' returns by less than 5 percent. Penalties were imposed for failure to file (Rev. & Tax. Code, **§ 18681**), failure to provide requested information (Rev. & Tax. Code, **§ 18683**), negligence (Rev. & Tax. Code, **§ 18684**), and failure to pay estimated tax (Rev. & Tax. Code, **§ 18685.05**). Respondent has conceded that the penalties imposed under sections 18684, 18683, and 18684 were miscomputed and should be **reduced**, in total, by \$5.50.

Appellant bears the burden of showing that respondent's determination is erroneous. (Todd v. McColgan, 89 Cal.App.2d 509 [201 P.2d 4141 (1949)].) No attempt has been made to provide any evidence which might carry that burden. Appellant's only contention appears to be that he could not complete his tax return without waiving some of his constitutional rights. Such a vague and general statement provides no basis for a determination in appellant's favor. Respondent's action, therefore, is sustained.

Appeal of James K. Lorenz

ORDER

Pursuant to the views expressed in the opinion of the board on file in this proceeding, and good cause appearing therefor,

IT IS HEREBY ORDERED, ADJUDGED AND DECREED, pursuant to section 18595 of the Revenue and Taxation Code, that the action of the Franchise Tax Board on the protest of James K. Lorenz against a proposed assessment of personal income tax and penalties in the total amount of \$1,367.73 for the year 1979, be modified to reflect respondent's concession with regard to the penalty amounts as noted in the foregoing opinion. In all other respects, respondent's action is sustained,

Done at Sacramento, California, this **21st** day
of September, **1902**, by the State Board of Equalization,
with Board Members Mr. Bennett, Mr. Collis, Mr. Dronenburg
and Mr. Nevins present.

Adlman, Wm. B. H., Chairman
 Arthur, J., Member
 Ernst, J., Member
 [Signature], Member
 [Signature], Member